

## SENATE BILL No. 64

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-21-8-59; IC 34-28-5-3.

**Synopsis:** Downloading of cell phone information by police. Prohibits a police officer from extracting or otherwise downloading information from a telecommunications device without the owner's consent for a violation of the law concerning typing, transmitting, or reading a text message while operating a motor vehicle unless: (1) the police officer has probable cause to believe that the telecommunications device has been used in the commission of a crime; (2) the information is extracted or otherwise downloaded under a valid search warrant; or (3) otherwise authorized by law. Provides that if a law enforcement officer detains a person because the law enforcement officer believes the person has committed an infraction or ordinance violation, the law enforcement officer may not, without the person's consent, extract or otherwise download information from a cellular telephone or another wireless or cellular communications device possessed by the person at the time the person is detained unless: (1) the law enforcement officer has probable cause to believe that the cellular telephone or other wireless or cellular communications device has been used in the commission of a crime; (2) the information is extracted or otherwise downloaded under a valid search warrant; or (3) otherwise authorized by law.

**Effective:** July 1, 2014.

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**Waltz**

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January 7, 2014, read first time and referred to Committee on Judiciary.

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Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## SENATE BILL No. 64

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 9-21-8-59, AS ADDED BY P.L.185-2011,  
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2014]: Sec. 59. (a) A person may not use a  
4 telecommunications device to:  
5 (1) type a text message or an electronic mail message;  
6 (2) transmit a text message or an electronic mail message; or  
7 (3) read a text message or an electronic mail message;  
8 while operating a moving motor vehicle unless the device is used in  
9 conjunction with hands free or voice operated technology, or unless the  
10 device is used to call 911 to report a bona fide emergency.  
11 (b) A police officer may not, **without the consent of the person:**  
12 (1) confiscate a telecommunications device for the purpose of  
13 determining compliance with this section; **or**  
14 (2) confiscate a telecommunications device and retain it as  
15 evidence pending trial for a violation of this section; **or**  
16 (3) **extract or otherwise download information from a**



telecommunications device for a violation of this section unless:

(A) the police officer has probable cause to believe that the telecommunications device has been used in the commission of a crime;

(B) the information is extracted or otherwise downloaded under a valid search warrant; or

(C) otherwise authorized by law.

SECTION 2. IC 34-28-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) Whenever a law enforcement officer believes in good faith that a person has committed an infraction or ordinance violation, the law enforcement officer may detain that person for a time sufficient to:

(1) inform the person of the allegation;

(2) obtain the person's:

(A) name, address, and date of birth; or

(B) driver's license, if in the person's possession; and

(3) allow the person to execute a notice to appear.

(b) If a law enforcement officer detains a person because the law enforcement officer believes the person has committed an infraction or ordinance violation, the law enforcement officer may not, without the consent of the person, extract or otherwise download information from a cellular telephone or another wireless or cellular communications device possessed by the person at the time the person is detained unless:

(1) the law enforcement officer has probable cause to believe that the:

(A) cellular telephone; or

(B) other wireless or cellular communications device;

has been used in the commission of a crime;

(2) the information is extracted or otherwise downloaded under a valid search warrant; or

(3) otherwise authorized by law.

